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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/826,033

04/19/2004

Janice J. Pearsall

P-6237-04-04

9052

23983

7590

06/29/2005

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EXAMINER

ROYAL, PAUL

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/826,033

Applicant(s)

PEARSALL, JANICE J.

Examiner

Paul Royal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1, Figure 2, pendant display with U-shaped hanger

Species 2, Figure 8, pendant display with fabric hanger

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 2 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Attorney Peter Sachtjen on 06/23/05 a provisional election was made without traverse to prosecute the invention of Species 1, claims 1-3, and 5-7. Affirmation of this election must be made by applicant in replying to this Office action. Claim 4 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "said support member" in line 15. There is insufficient antecedent basis for this limitation in the claim. As best understood applicant is claiming the support holder (32) previously recited.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumpf (US 4,829,687) in view of Brower (US 3,695,256), Hawes (US 3,762,360) and Kolvites et al. (US 5,483,916).

Rumpf teaches a check-out lane sign including:

a body (4, which forms a support holder) formed of a piece of plastic having a planar rear surface (5) attached to a rail;

a spherical socket (11) formed in the support holder;

a downwardly extending insertion aperture (9) formed vertically in the support holder (4) and intersecting the socket (11) along a ball insertion position;

a pendant pole (13) having an elongate cylindrical shaft, and at least one spherical end cap (12) formed on the end thereof, the end cap (12) being inserted through the aperture (9) and universally supported at the socket (11);

snap fitting and retaining means (17) integrally formed on the holder (4) adjacent the socket (11) for receiving and retaining the end cap (12) with a snap-fit;

a pendant (16); and

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a vertically upwardly and forwardly opening slot/guide means (18) formed in the holder (4) and registering with the socket (11) for accommodating pivotal movement of the pole (13) from the insertion position to a horizontal position for displaying the pendant (16) in a desired area.

Note where the aperture (9) of Rumpf extends into the socket (11) it is understood to provide a downwardly extending insertion aperture as seen in Figure 2 and Figure 4.

Note the location recited in the instant application such as a room area and a hallway are understood to be exemplary vicinities and not given patentable weight.

Rumpf does not teach:

attaching a folding pendant/flag to a U-shaped bracket;

an inverted U-shaped plastic hanger having a thickness less than the limited clearance space, the hanger member having an upper section engaging the top surface of the door and spaced front and rear sections slidably overlying the exterior and interior surfaces of the door;

more than one spherical end cap on a pendant pole; and

a pendant being formed of sheet material having a pocket formed in the upper end thereof in which the shaft is received for suspending the pendant.

Hawes teaches a sign assembly that includes a rotatable/foldable flag assembly (156) mounted to a U-shaped hanger bracket (20) to provide a vehicle flag that aids in locating the vehicle.

Brower teaches an over the door support (11) including an inverted U-shaped hanger bracket member (21,37,49) having a thickness less than a limited clearance space, the hanger member having an upper section (27) engaging the top surface of a door (47) and spaced front (21) and rear (49) sections slidably overlying the exterior and interior surfaces of the door to provide a support structure which can be repeatedly attached to a door without marring or defacing the door surface. Brower is presented to teach it is generally known to securely attach U-shaped brackets to the top of a door without damaging the door surface.

Kolvites et al. teaches a pivotal flag display device including an enlarged decorative spherical end cap (22) on a pendant pole/flag staff (12) having a shaft; and a pendant/flag (14) being formed of sheet material having a pocket/tube (14a) formed in the upper end thereof in which the shaft (12) is received for suspending the pendant, see column 3, lines 50-61, to provide an inexpensive flag display.

Note, Brower teaches the support assembly (11) is adapted to be attached to a variety of different doors of various thickness and in use the user opens the door and slides the support assembly onto the top of the door. Where the door is therefore understood to be a pivoting door which is at least partially supported by a casing and divides to areas either of which may be a room or an hallway.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the check-out lane sign of Rumpf to include attaching the folding pendant pole to a U-shaped bracket, as taught by Hawes to provide a vehicle flag that aids in locating the vehicle, and to further modify the sign of Rumpf and Hawes

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to include an inverted U-shaped plastic hangar having a thickness less than a limited clearance space, the hanger member having an upper section engaging the top surface of a door and spaced front and rear sections slidably overlying the exterior and interior surfaces of the door, as taught by Brower, and to still further modify the sign of Rumpf, Hawes, and Brower to include a spherical end cap on a pendant pole/flag staff having a shaft and a pendant/flag being formed of sheet material having a pocket/tube formed in the upper end thereof in which the shaft is received for suspending the pendant, as taught by Kolvites et al., to provide an inexpensive flag display.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dexter teaches a vehicle location marker. Furman teaches a display support. Coutts teaches a warning flag. Lalo teaches a vehicle flag system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652.

The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



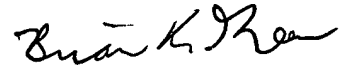
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal  
6/24/2005

Paul Royal  
Examiner  
Art Unit 3611



BRIAN K. GREEN  
PRIMARY EXAMINER